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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,929	07/29/2003	Michel G. Paille		7516
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23830	7590	10/04/2006
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EXAMINER

CHIN, RANDALL E

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,929

Applicant(s)

PAILLE, MICHEL G.

Examiner

Randall Chin

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1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3,5,10,13,16 and 17 is/are rejected.
7) ☒ Claim(s) 4,6-9,11,12,14 and 15 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01232004.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 16 August 2006.
2. Applicant's election of Group I, claims 1-17, in the reply filed on 16 August 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

3. The drawings are objected to because it is suggested to include a **bracket** around the elements in each of Figs. 3, 4, 7 and 13 for clarity.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Winther 2,947,564 (hereinafter Winther).

The patent to Winther discloses a device comprising a housing 1 of a substantially "L" shaped form (Fig. 1) having a stem with a first end and a base 7 in the form of a sleeve or mandrel with a second end, a hand grip substantially near said stem and mounted with said housing, a release knob or button 3 substantially near said stem, and a jaw system 6 mounted substantially near said base and a shaft or linkage 2 connected between said jaw system and said release button whereby opening movement of said release button causes said jaw system to open and create a gap, thereby allowing a user to install and hold material/wipe(s) (col. 1, lines 60-63).

As for a user utilizing one or more pieces of toilet paper to wipe after toilet use by fitting one or more pieces of toilet paper within the jaw in a "self wiping toiletry device," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 5, there is a spring 5 connected with said jaw system and biasing said jaw system closed when said release button is not provided with opening movement, thereby holding said toilet paper (col. 1, lines 56-63).

As for claim 13, the patent to Winther discloses a nearly "L" shaped housing (Fig. 1) having a stem, a base 7, a cavity, a shaft or linkage 2 within said cavity, a jaw system 6 mating with said base and capable of holding material/wipe(s), a hand grip on said stem, and said linkage having a first end with a release button and a second end connected with said jaw system whereby opening movement of said linkage causes said jaw system to open.

As for a user utilizing one or more pieces of toilet paper to wipe after toilet use by fitting one or more pieces of toilet paper within the jaw in a "self wiping toiletry device," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton 6,272,716 (hereinafter Thornton).

The patent to Thornton discloses a self wiping toiletry device 200 comprising a body or housing 110 of a curved-shaped form (Fig. 1) having a stem with a first end 130 and a base in the form of mandrel 210 with a second end, a hand grip 400 substantially near said stem and mounted with said housing, a release button 525 substantially near said stem, and a jaw system mounted substantially near said base and capable of opening sufficiently to fit one or more pieces of toilet paper within the jaw system and closing sufficiently to hold the toilet paper, and a rod or linkage 505 connected between said jaw system and said release button whereby opening movement of said release button causes said jaw system to open and create a gap, thereby allowing a user to install and hold the toilet paper whereby the user may use one or more pieces of toilet paper to wipe after use. Thornton's self-wiping toiletry device is curved as clearly shown in Figs. 1 and 3. It would have been obvious to one of ordinary skill in the art to have modified Thornton's device such that it is of substantially "L" shaped form in order to more ergonomically accommodate older persons when utilizing the device.

As for claim 2, said jaw system comprises a retainer arm defined by jaw 230, for example, pivotably mounted with said mandrel and capable of mating with said mandrel whereby said toilet paper is held (col. 4, lines 23-43).

As for claim 3, said mandrel has one or more grooves having serrations (i.e., teeth on one jaw 230 or 300 in phantom in Fig. 1) and said retainer arm has one or more serrations which mate with said mandrel serrations.

As for claim 5, there is a spring 530 connected with said jaw system and biasing said jaw system closed when said release button is not provided with opening movement, thereby holding said toilet paper

As for claim 13, as already stated, Thornton teaches a self wiping toiletry device comprising a curved-shaped housing having a stem, a base, a cavity, a linkage within said cavity, a jaw system mating with said base and capable of holding one or more pieces of toilet paper, a hand grip on said stem, and said linkage having a first end with a release button and a second end connected with said jaw system whereby opening movement of said linkage causes said jaw system to open thereby allowing said toilet paper to be placed onto said base and used for wiping after toilet use. Thornton's self-wiping toiletry device is curved as clearly shown in Figs. 1 and 3. It would have been obvious to one of ordinary skill in the art to have modified Thornton's device such that it is a nearly "L" shaped housing in order to more ergonomically accommodate older persons when utilizing the device.

As for claim 16, as already stated, said jaw system further comprises retainer arm 230 or 300 pivotably mounted with said housing having a top side contoured to

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mate with said base, a rear end having a hub which pivotably mates with a pivoting shaft (never positively recited) within said cavity, and a spring 530 normally biasing said retainer arm against said base when opening movement is not supplied to said linkage.

As for claim 17, as previously mentioned, said jaw system further comprising one or more serrations on said retainer arm or said base.

8. Claims 1, 2, 5, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Federico 5,630,243 (hereinafter Federico).

The patent to Federico discloses a device comprising a barrel or housing 5 of a substantially "L" shaped form (Fig. 1A) having a stem with a first end and a base (Fig. 2) in the form of a mandrel with a second end, a hand grip 10 substantially near said stem and mounted with said housing, a release trigger or button 2 substantially near said stem, and a jaw system 6 mounted substantially near said base and a shaft or linkage 2 connected between said jaw system and said release button whereby opening movement of said release button causes said jaw system to open and create a gap, thereby allowing a user to install and hold material/wipe(s) (col. 1, lines 60-63).

As for a user utilizing one or more pieces of toilet paper to wipe after toilet use by fitting one or more pieces of toilet paper within the jaw in a "self wiping toiletry device," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 2, said jaw system comprises a retainer arm 8 (Fig. 4) pivotably mounted with said mandrel and capable of mating with said mandrel whereby material can be held.

As for claim 5, there is a spring 3 connected with said jaw system and biasing said jaw system closed when said release button is not provided with opening movement, thereby holding said material.

As for claim 10, said housing further comprising a cavity having one or more guides at 6 (Figs. 1A and 2) for positioning said linkage within said cavity, and one or more "pivoting shafts" defined by joggle-hinge 9 for holding said jaw system.

As for claim 13, as already stated, the patent to Federico discloses a nearly "L" shaped housing (Fig. 1A) having a stem, a base, a cavity, a shaft or linkage within said cavity, a jaw system mating with said base and capable of holding material/wipe(s), a hand grip on said stem, and said linkage having a first end with a release button and a second end connected with said jaw system whereby opening movement of said linkage causes said jaw system to open.

As for a user utilizing one or more pieces of toilet paper to wipe after toilet use by fitting one or more pieces of toilet paper within the jaw in a "self wiping toiletry device," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Allowable Subject Matter

9. Claims 4, 6-9, 11, 12, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

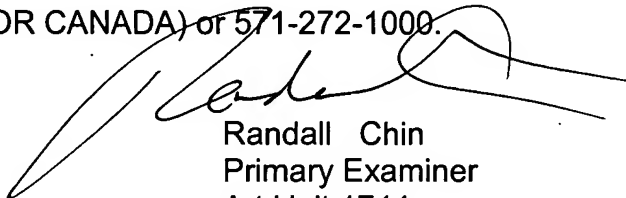
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Seals and Wenger are relevant to personal hygienic devices.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Randall Chin
Primary Examiner
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